

REMARKS

Applicants respectfully submit traverse the rejection of claims 1, 7, and 13-17 as lacking support. At page 3, lines 27 to 30 the application states:

The total content of glyceride fatty ester in hair oils of the invention suitably ranges from 10% to 95%, preferably from 20% to 80%, by weight based on the total weight of the hair oil.

At page 3, lines 24 to 25 it is noted that: "The glyceride fatty ester may be present in hair oils of the invention as a single material or as a blend". At page 3, lines 21 to 22, listed as particularly preferred glyceride fatty esters are coconut oil, sunflower oil, almond oil and mixtures thereof. In the Examples, a composition containing 60% of coconut oil and 40% light mineral oil is exemplified (Example 4) as are compositions containing 60% coconut oil, 35% light mineral oil and 5% of sunflower or castor oil (Examples 2 and 3).

Reading the page 3 language together with the Examples, which disclose a minimum of 60% of glyceride fatty ester, it is clear that the application supports a range of 60 to 80% of glyceride fatty ester (which has not been contested). As the application teaches that all of the glyceride fatty ester can be coconut oil, a range of 60-80% by weight coconut oil is inherently disclosed. This together with the exemplification of coconut oil at a level of 60%, leads to the conclusion that the requirement of a minimum of 60% by weight of coconut oil in a composition containing 60-80% by weight of glyceride fatty ester is effectively disclosed.

It is further submitted that there is no lack of clarity regarding the amount of glyceride fatty acid and coconut oil. Claim 1 requires that the hair oil contain 60 to 80% by weight of a first oily component selected from the group consisting of coconut oil, sunflower oil, almond oil and mixtures thereof, with the proviso that coconut oil is present in the hair oil in an amount of at least 60% by weight. Claim 1 has, however, been amended to specify that the "at least 60% by weight" of coconut oil present in the hair oil is based on the hair oil's total weight. Given the limitation that the first oily component is present in the hair oil in an amount of 60 to 80% by weight, it is clear that the coconut oil can not be present in the hair oil an amount in

excess of 80% by weight. It is equally clear that when the coconut oil is present in an amount of 80% by weight, the amount of the remaining ingredient(s) will be selected such that, collectively, the composition ingredients total 100%.

The pending claims stand rejected under 35 U.S.C. 103(a) as unpatentable over GB 564551 in view of EP 0546235 (EP '235) in further view of Brown et al. (US 5,422,118). Additionally, claims 13-17 stand rejected as obvious over DE 1035855 (DE '855), optionally in view of Pavlin (US 5,998,570); and claims 1 and 7 stand rejected as obvious over DE 1035855 optionally in view of Pavlin (US 5,998,570, in further view of GB 564551,

As noted in prior responses, pursuant to this invention was found that in hair oils comprising relatively high levels of glyceride fatty esters (coconut oil in particular), the incorporation of a light mineral oil as described by the subject claims results in a composition having both a less greasy feel, and improved penetration into the hair fiber.

GB 564551 discloses hair oils (particularly oils that contain a "non-drying vegetable oil such as castor oil, olive oil, sesame oil, almond oil ground nut oil or arachis oil", into which hair oils ethyl oleate is incorporated to impart a less greasy feel. At page 2, lines 19 to 33 the application states:

In the manufacture of toilet and cosmetic preparations, in accordance with the invention, methyl or ethyl oleate is mixed in any desired proportions, with a vegetable or animal oil, such as castor oil, olive oil, sesame oil, linseed oil, almond oil, round nut oil, arachis oil or sperm oil, other ingredients such as perfumes, fats, waxes, or mineral oils being incorporated if desired.

There is, however, nothing in GB 564551 that discloses or suggests the incorporation of light mineral oil as a means of imparting a less greasy feel to hair oils having high contents of coconut oil.

EP '235 is directed to a method of treating the scalp to stimulate hair regrowth (as opposed to teaching a method of conditioning hair) wherein at least three vegetable oils or fats with greatly differing saponification and iodine numbers are

combined, the combination of vegetable oils or fats with different saponification and iodine numbers being a critical element of its teaching. There is nothing in the citation that discloses or suggests the use of coconut oil at the levels of the subject claims, let alone the benefits of the claimed combination of glyceride fatty ester and light mineral oil in terms of producing hair oils having the sensory and fiber penetration properties of the subject compositions. There is nothing in EP '235 or GB 564 551 alone or in combination, that would suggest the substitution of the ethyl oleate disclosed by GB 564551 with light mineral oil.

Brown et al is directed to the transdermal application of physiologically active amines, wherein mineral oil and isopropyl oleate are among the solvents listed as suitable for use in the transdermal compositions. Brown et al. has nothing to do with hair oils and is a non-analogous citation. One skilled in the art reading Brown et al., GB 564 551 and EP '235 would have no motivation to formulate a hair oil having improved sensory and penetration properties by incorporating light mineral oil into a composition having high levels of coconut oil. As previously noted, GB 564 551 teaches a different route to producing less greasy vegetable oil compositions (the citation mentioning a great many different vegetable oils, but never once coconut oil) namely the use of ethyl oleate. Moreover, even if combined, it is not apparent how the subject compositions would be disclosed.

DE '855 discloses compositions containing 60% olive oil, 40% paraffin oil, 9% isopropylmyristate, 0.5% N-acetylcystein isopropyl ester, and 0.5% N-salicylic methionine isopropyl ester. It is acknowledged that the citation does not teach the instant 60% of a first oily component as described by the subject invention or the viscosity of the citation's paraffin oil component. There is nothing in the citation that on its face would suggest substituting the olive oil with coconut oil and the paraffin oil with a light mineral oil as described by the subject claims, let alone combining coconut oil and light mineral oil as a means of providing hair oils having the improved properties of the subject compositions.

Pavlin is directed to gelling agents for low polarity liquids. It also discloses gels formed between the described ester-terminated polyamide and a nonaqueous liquid. There is nothing in Pavlin that discloses or suggests hair oils having 60-80%

of a first oily phase as described by the subject claims, or compositions containing the high levels of coconut oil required by the subject hair oil compositions. Neither Pavlin nor GB '551 discussed above cures the deficiencies of DE '855. Even if combined, the motivation for which Applicants contest, one would have to question whether the resulting combination would provide one skilled in the art with anything remotely like the subject compositions. Going from gels to hair oils, and olive oil based compositions high in paraffin oil of unspecified viscosity to high coconut oil content compositions containing light mineral oil is a remarkable stretch that would appear to be suggested only hindsight, and only by the instant invention.

Information regarding the Clinic Plus product is not in the immediate possession of the undersigned, and will require inquiry. It is noted, however, that if the product comprises light mineral oil and coconut oil in a composition as described by the subject claims, the cited article, which refers to the product as "an unqualified success", might suggest a commercial benefit to the composition compared to conventional hair oils, that further refutes the obviousness rejections set forth in the latest Office Action.

In light of the above amendments and remarks, it is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Karen E. Klumas", is written over a horizontal line.

Karen E. Klumas
Registration No. 31,070
Attorney for Applicant(s)

KEK/sa
(201) 894-2332